IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.413 OF 1997
IN
NOTICE OF MOTION NO.1026 OF 1995
IN
SUIT NO.670 OF 1995

Smt.Pramilaben, w/o.Ramesh alias
Rameshchandra V. Sheth of Bombay
Indian Inhabitant residing at
201, Plot No.140, 2nd floor,
Pushpeshwar Sher-E-Punjab Co.
operative Housing Society Ltd.,
Andheri East, Bombay 400 093. Appellant
(original defendant no.4)

vs.

1. Bank of Baroda, a body corporate
constituted under the provisions
of Banking Companies (Acquisition
& Transfer of Undertakings) Act
1970 having its Head Office at
Mandvi, Baroda and one of its
Branch Office at Khetwadi, Bombay 4.

2. M/s.Ravi Pharma, a partnership
firm, carrying on business at 201,
Plot No.140, 2nd Floor, Pushpeshwar,
Sher-E-Punjab Co-operative Housing
Society Ltd. Mahakali Road, Andheri
(East), Bombay 400 093 and having
Factory premises at plot bearing
Survey No.3674 and 3675 Revenue
Survey No.675, Vithaldas Estate,
Banswada Road, Jhalod District
Panchmahal, Gujarat 389 170.

3. Ramesh alias Rameshchandra Vithaldas
Sheth, Bombay Inhabitant residing at
201, Plot No.140, 2nd Floor,
Pushpeshwar, Sher-E-Punjab Co-
operative Housing Society Ltd.,
Mahakali Road, Andheri (East),
Bombay 400 093.

4. Sandeep s/o.Ramesh alias
Rameshchandra V. Sheth, Bombay
Inhabitant residing at
201, Plot No.140, 2nd Floor,
Pushpeshwar, Sher-E-Punjab Co-
operative Housing Society Ltd.,
Mahakali Road, Andheri (East),
Bombay 400 093.

Respondents
(Respondent 1 is
original plaintiff,
Respondents 2, 3 & 4,
original defendants
1,2 and 3
respectively.)

Mr.Bipin Gandhi with Mr.Mayur Narendra Kargatia for the appellant.

Mr.A.B.Shinde for the respondent no.1.

Mr.R.V.Sheth, respondent no.3 in person.

CORAM : R.M. LODHA &
D.G. KARNIK, JJ.

DATED : 15th December 2005

ORAL JUDGMENT (Per R.M.Lodha,J.)

This appeal arises out of an interim order dated 13th March 1997 passed in the notice of motion in the Suit. The Suit was filed by the first respondent-Bank for recovery of the due amount in the sum of Rs.41,57,301/- and interest thereon and other reliefs. During the pendency of the appeal, the Suit came to be transferred to the Debts Recovery Tribunal. We are informed that the Debts Recovery Tribunal has now decided the Suit. Though the learned counsel for the appellant and the respondent no.3 raised serious grievance about the injustice meted out to them by the

respondent no.1-Bank and the gross errors committed by the Debts Recovery Tribunal in disposing of the transferred Suit, but, we are afraid, neither the correctness of the judgment passed by the Debts Recovery Tribunal nor the grievance that they have been injusticed by the Bank can be examined in this appeal. The appeal challenges the order dated 13th March 1997 whereby the learned motion Judge appointed the Court Receiver and issued certain other directions. Now since the Suit itself has been disposed of by the Debts Recovery Tribunal upon transfer, nothing survives in the appeal to be decided by us.

2. The learned counsel for the appellant and the respondent no.3, who appears in person then submitted that direction be issued to the Debts Recovery Tribunal to waive the pre-requisite deposit for maintaining the appeal against the judgment of the Debts Recovery Tribunal.

3. This prayer cannot be entertained by us in the present appeal. The appellant and the respondent no.3 are at liberty to make an appropriate application before the Debts Recovery Tribunal for waiver of pre-requisite deposit. Needless to say that if such an application is made, the same shall be decided by the Debts Recovery Tribunal in accordance with law.

. Appeal is disposed of accordingly with no order as to costs.

(R. M. LODHA, J.)

(D. G. KARNIK, J.)